

FEB 11 2010

PATENT
Attorney Docket No. 101.0089-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent of:)
Gary K. Michelson) (Serial No.: 10/736,866)
Patent No.: 7,022,137)
Issue Date: April 4, 2006) (Filed: December 16, 2003)
For: BONE HEMI-LUMBAR INTERBODY)
SPINAL FUSION IMPLANT HAVING)
AN ASYMMETRICAL LEADING END)
AND METHOD OF INSTALLATION)
THEREOF)

COPY

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR CERTIFICATE OF CORRECTION

Pursuant to 35 U.S.C. §§ 254 and 255 and 37 C.F.R. §§ 1.322 and 1.323, this is a request for the issuance of a Certificate of Correction in the above-identified patent. Two (2) copies of PTO Form 1050 are appended. The complete Certificate of Correction involves one (1) page.

The mistakes identified in the appended Form to issued claims 9, 37, and 50 are of a clerical or typographical nature, or of minor character, and resulted from an error made in good faith by Applicant.

The remaining mistakes identified in the appended Form occurred through the fault of the Patent Office, as clearly disclosed by the records of the application which matured into this patent, and as evidenced in the attached copies of the following documents:

1. Form PTO-1449 submitted with the Information Disclosure Statement dated June 9, 2005, showing the correct patent number and inventor name of the U.S. patent document cited;

COPY

2. Page 5 of the June 9, 2005 Amendment, showing the correct language of issued claim 31; and
3. Page 8 of the June 9, 2005 Amendment, showing the correct language of issued claim 44.

The requisite fee of \$100.00 as set forth in 37 C.F.R. § 1.20(a) to cover the costs of issuing this Certificate is to be charged to Deposit Account No. 50-3726.

Should any additional fees be needed, authorization is hereby given to charge any fees due in connection with the filing of this request to Deposit Account No. 50-3726.

Issuance of the Certificate of Correction containing the correction is earnestly requested.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: May 18, 2006

By: Thomas H. Martin
Thomas H. Martin
Registration No. 34,383

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030

PTO/SB/44 (04-05)
(Also Form PTO-1050)UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

COPY

PATENT NO. : 7,022,137
APPLICATION NO. : 10/736,866
ISSUE DATE : April 4, 2006
INVENTOR(S) : Gary K. Michelson

Page 1 of 1

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Cover Pages, Section (56), References Cited:

U.S. Patent Documents, Page 2: change "6,610,085 B1 8/2003 Lazarus" to
- 6,610,065 B1 8/2003 Branch -.

Column 12, Line 23:

Change "bone, morphogenetic" to - bone, bone morphogenetic -.

Column 13, Line 24:

Change "spine" to - spinal -.

Column 14, Line 16:

Change "bone, morphogenetic" to - bone, bone morphogenetic -.

Column 15, Line 7:

Change "and side" to - and said -.

Column 16, Line 7:

Change "bone, morphogenetic" to - bone, bone morphogenetic --.

Mailing Address of Sender:
Martin & Ferraro, LLP
1557 Lake O'Pines Street, NE
Hartville, Ohio 44632

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1557 Lake O'Pines Street, NE
Hartsville, Ohio 44632

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OMB 0651-0031

Substitute for FORM PTO-1449	Attorney Docket Number 101.0089-02000	Customer No. 22882
INFORMATION DISCLOSURE CITATION IN AN APPLICATION	Applicant Gary K. Michelson	Application Number 10/736,866
(Use several sheets if necessary) Sheet <u>1</u> of <u>1</u>	Filing Date December 16, 2003	Group Art Unit 3732 Examiner E. Robert

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	2003/0130737	07-2003	McGahan et al.			
	6,258,125	07-2001	Paul et al.			
	6,277,149	08-2001	Boyle et al.			
	6,610,655	08-2004	Boyle et al.			

FOREIGN PATENT DOCUMENTS

DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION (YES/NO)

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER	DATE CONSIDERED
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.	

Application No. 10/736,866
Amendment dated June 9, 2005

configured to conform to the anatomic contour of at least a portion of the posterior aspect of the vertebral bodies.

21. (original) The implant of claim 1, wherein said implant is adapted for insertion from a first lateral aspect of the vertebral bodies and said leading end is configured to conform to the anatomic contour of at least a portion of a second lateral aspect of the vertebral bodies opposite the first lateral aspect.
22. (original) The implant of claim 1, wherein said trailing end is generally symmetrical relative to the mid-longitudinal axis.
23. (original) The implant of claim 1, wherein less than half of said leading end is along a line perpendicular to the mid-longitudinal axis of said implant in a plane dividing said implant into an upper half and a lower half.
24. (original) The implant of claim 1, wherein said bone is selected from the group including cortical fibers, bone filaments, and bone particles.
25. (original) The implant of claim 1, in combination with a fusion promoting material other than bone.
26. (original) The implant of claim 1, wherein said implant comprises a bone ingrowth material other than bone.
27. (original) The implant of claim 1, further comprising a material, other than the bone from which said implant is formed, that intrinsically participates in the growth of bone from one of the adjacent vertebral bodies to the other of the adjacent vertebral bodies.
28. (original) The implant of claim 1, in combination with an osteogenic material other than bone.
29. (original) The implant of claim 28, wherein said osteogenic material is at least one of bone morphogenetic protein and genes coding for the production of bone.
30. (original) The implant of claim 1, in combination with a driver instrument for installing said implant into the spine.
31. (new) An interbody spinal implant for insertion at least in part across the surgically corrected height of a disc space between adjacent vertebral bodies of

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conform to the anatomic contour of at least a portion of the posterior aspect of the vertebral bodies.

42. (new) The implant of claim 31, wherein said implant is adapted for insertion from a first lateral aspect of the vertebral bodies and said leading end is configured to conform to the anatomic contour of at least a portion of a second lateral aspect of the vertebral bodies opposite the first lateral aspect.
43. (new) The implant of claim 31, wherein said trailing end is generally symmetrical relative to the mid-longitudinal axis.

44. (new) An interbody spinal implant for insertion at least in part across the surgically corrected height of a disc space between adjacent vertebral bodies of a human spine, the vertebral bodies each having an anterior aspect, a posterior aspect, and an endplate having an apophyseal rim proximate the perimeter of the endplate; said implant comprising:

a leading end for insertion first into the disc space, a trailing end opposite said leading end, and therebetween a length along a mid-longitudinal axis of said implant, said leading end being asymmetrical, at least one of said ends having a curved portion that is configured to conform to the anatomic contour of at least a portion of one of the anterior and posterior aspects of the vertebral bodies;

opposed portions between said leading and trailing ends adapted to be placed within the disc space to contact and support the adjacent vertebral bodies, said opposed portions being non-arcuate along at least a portion of the length of said implant, each of said opposed portions having at least one opening therein to permit for the growth of bone from adjacent vertebral body to adjacent vertebral body through said implant, said implant being formed of bone;

an interior facing side wall, an exterior facing side wall opposite said interior side wall, and a width therebetween, said width of said implant being less than approximately one-half of the maximum width of the adjacent vertebral bodies into which said implant is adapted to be inserted, said interior and exterior side walls being between said opposed portions and said leading and trailing